

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

BEST MEDICAL INTERNATIONAL, INC. Plaintiff, vs. ACCURAY INCORPORATED, a corporation; Defendant.	Case No. 2:10-CV-1043 (TFM)
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**DEFENDANT ACCURAY INCORPORATED’S MOTION
FOR CLARIFICATION AND MODIFICATION
OF THE COURT’S JANUARY 24, 2014 ORDER**

Accuray respectfully submits this motion seeking clarification and modification of the Court’s January 24, 2014 Order on Messrs. Eric Soller, Douglas Hall, and the Pietragallo Law Firm’s (hereinafter referred to as “BMI’s Counsel”) Expedited Motion to Withdraw and for a Stay of this Case (Doc. No. 215) (“the Order”).

1. On January 24, 2014, the Court entered an Order granting in part and taking under advisement in part the Expedited Motion for Leave of Eric G. Soller, Esquire, Douglas M. Hall, Esquire and Pietragallo Gordon Alfano Bosick & Raspanti, LLP to Withdraw as Counsel and Related Request by Best Medical International, Inc. for a Short Stay of the Case to Obtain Substitute Counsel (Doc. No. 215) (“the Order”).

2. Accuray respectfully requests clarification on the following points which are not specifically addressed in the Order:

- a. whether the stay will be automatically lifted if and when replacement counsel for BMI enters an appearance prior to the March 3, 2014 deadline;

- b. whether the parties are permitted to confer during the stay for the limited purpose of calendaring dates for fact depositions which will occur after the stay is lifted; and
- c. when and with whom should Accuray raise the multiple outstanding discovery disputes that were not resolved with BMI's current counsel prior to the stay.

3. For the reasons set forth in the accompanying Memorandum of Law, Accuray respectfully requests that the Court modify its January 24, 2014 Order to provide as follows:

- a. this stay shall be automatically lifted on the date that BMI's replacement counsel enters an appearance;
- b. counsel for BMI and counsel for Accuray may confer while the stay is in effect for the limited purposes of scheduling dates and locations for the 16 fact depositions to take place between March 3, 2014 and April 15, 2013;
- c. Accuray may pursue discovery and file a motion to compel production of all documents relevant to the issues of BMI's ownership of the '283 patent and standing to maintain this suit while the stay is still in effect;
- d. Accuray may raise its remaining outstanding discovery disputes with the Court by motion when the stay is lifted.

4. A proposed Modified Order is attached, with Accuray's modifications in paragraphs 6-9.

WHEREFORE, Accuray respectfully requests that the Court enter Accuray's Modified Order.

This 30th day of January, 2014.

By: /s/ Madison C. Jellins

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CERTIFICATE OF SERVICE

I hereby certify that on January 30, 2014, I electronically filed the foregoing document with the clerk of court for the U.S. District Court, Western District of Pennsylvania, using the electronic case filing system of the court. The electronic case filing system will send notification of such filing to all counsel of record. Counsel may access such document using the Court's system.

/s/ Madison C. Jellins
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Dated: January 30, 2014